

**ATTACHMENT 4:**

**U.S. FISH AND WILDLIFE SERVICE  
CONCURRENCE LETTER IN RESPONSE TO BLM  
FORMAL REQUEST FOR CONSULTATION FOR  
THE WEST HAY CREEK COAL LEASE BY  
APPLICATION UNDER THE ENDANGERED  
SPECIES ACT, SECTION 7**



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Ecological Services  
4000 Airport Parkway  
Cheyenne, Wyoming 82001


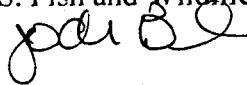
SEP 15 2004  
10:00  
FEDERAL  
WYOMING  
CHEYENNE

In Reply Refer To:  
ES-61411/W.02/WY8515

SEP 15 2004

### Memorandum

To: James K. Murkin, Field Manager, Bureau of Land Management, Casper Field Office, Casper, Wyoming

From:  Brian T. Kelly, Field Supervisor, U.S. Fish and Wildlife Service, Wyoming Field Office, Cheyenne, Wyoming 

Subject: Concurrence for the West Hay Creek Coal Lease by Application Tract

Thank you for your letter and attached biological assessment for the West Hay Creek Lease-by-Application (LBA) tract, dated June 3, 2004, received in the Wyoming Field Office on June 4. Triton Coal Company has filed an application with the Bureau of Land Management (Bureau) to lease Federal coal reserves in a tract located north and adjacent to the Buckskin mine in Campbell County, Wyoming. Under the proposed action the Bureau would hold a competitive coal lease sale and issue a maintenance lease to the successful bidder for the West Hay Creek LBA tract. The legal description of the West Hay Creek LBA tract includes all, or portions of T53N, R72W, Section 17, 18 19 and 20 for a total of approximately 921.2 acres to be leased. In your letter you requested informal consultation for the West Hay Creek Coal LBA tract, located in Campbell County, Wyoming, pursuant to section 7(a)(2) of the Endangered Species Act of 1973 (Act), as amended (50 CFR §402.13). We were unable to complete this consultation until additional information was provided, which was received on September 15, 2004.

The Bureau has made "no effect" determinations for the black-footed ferret. When the Bureau makes a "no effect" determination, concurrence from the Service is not required, although, we do appreciate receiving a copy of the data used to make that determination for our records.

Based on the information provided in the biological assessment and the Ute ladies'-tresses survey report prepared by Habitat Management Incorporated and dated September 2004, the Service concurs with the determinations that the leasing of the West Hay Creek LBA tract "may affect, but is not likely to adversely affect" the bald eagle or the Ute ladies'-tresses orchid.

This concludes informal consultation pursuant to the regulations implementing the Act. This project should be re-analyzed if new information reveals effects of the action that may affect listed or proposed species or designated or proposed critical habitat in a manner or to an extent not considered in this consultation; if the action is subsequently modified in a manner that causes

an effect to a listed or proposed species or designated or proposed critical habitat that was not considered in this consultation; and/or, if a new species is listed or critical habitat is designated that may be affected by this project.

If you have any questions regarding this letter or your responsibilities under the Act, please contact Bradley Rogers of my staff at the letterhead address or phone (307) 772-2374, extension 25.

cc: BLM, Land Law Examiner, Wyoming State Office, Cheyenne, WY (J. Weaver)  
BLM, Field Manager, Buffalo Field Office, Buffalo, WY (D. Stanger)  
FWS, Federal Activities Specialist, Denver, CO (R. Dach)  
WGFD, Statewide Habitat Protection Coordinator, Cheyenne, WY (V. Stelter)  
WGFD, Non-Game Coordinator, Lander, WY (B. Oakleaf)